
COMMONWEALTH OF VIRGINIA



OFFICE OF THE GOVERNOR

Executive Order 57 (2007)

DECLARATION OF A STATE OF EMERGENCY ARISING FROM DROUGHT AND FOREST FIRE OR THE POTENTIAL THEREOF THROUGHOUT THE COMMONWEALTH OF VIRGINIA

Current drought conditions have created the potential for widespread and very dangerous forest fires throughout Virginia. These conditions have posed and may continue in the future to pose, a significant threat to public safety. I hereby declare that a state of emergency exists within the Commonwealth of Virginia, and I specifically authorize immediate placement of Virginia National Guard assets for deployment to assist the Virginia Department of Forestry, upon its request, in fighting and mitigating the effects of fires. I further impose a statewide ban on all open burning effective immediately. The ban on open burning shall continue until the Secretary of Agriculture and Forestry, in consultation with the Secretary of Public Safety, determines that conditions warrant ending the ban.

Furthermore, I direct that state agencies provide assistance in dealing with potential or actual drought-related issues to the extent required by the Coordinator of Emergency Management in consultation with the Secretary of Public Safety, the Adjutant General of Virginia, the State Forester, the Commissioner of Health, the Commissioner of Agriculture and Consumer Services, and others as required.

The health and general welfare of the citizens of the Commonwealth required that state action be taken to help alleviate these drought-related conditions. I find that the effects of this drought constitute a natural disaster wherein human life and public and private property are imperiled, as described in §44-75.1.A.4 of the *Code of Virginia*.

Therefore, by virtue of the authority vested in me by §44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by §44-75.1 of the *Code of Virginia*, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I do hereby proclaim that a state of emergency exists in the Commonwealth and direct that appropriate assistance be rendered by agencies of both state and local governments to prevent and alleviate any conditions resulting from drought or forest fires. Pursuant to §44-75.1.A.3 and A.4 of the *Code of Virginia*, I also direct that the Virginia National Guard and the Virginia Defense Force be called forth to state duty to assist in providing such aid, to the extent required by the Coordinator of the Department of Emergency Management, in coordination with the Secretary of Public Safety, the Adjutant General of Virginia, and the State Forester.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and to recover from its effects, and in accordance with my authority contained in §44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following protective and restoration measures:

- A. The full implementation by agencies of the state and local governments of Volumes 1 (Basic Plan) and Volume 2 (Disaster Recovery Plan) of the Virginia Emergency Operations Plan, as amended along with other appropriate state agency plans.
- B. I hereby direct evacuation of areas threatened or stricken by forest fires. Following a declaration of local emergency pursuant to §44-146.21 of the *Code of Virginia*, if a local governing body determines that evacuation is deemed necessary for the preservation of life or other emergency mitigation, response or recovery, pursuant to §44.146.17(1) of the *Code of Virginia*. I direct the evacuation of all or part of the populace therein from such areas and upon such timetable as the local governing body, in coordination with the Virginia Emergency Operations Center (VEOC), acting on behalf of the State Coordinator of Emergency Management, shall determine. Notwithstanding the foregoing, I reserve the right to direct and compel evacuation from the same and different areas and determine a different timetable both where local governing bodies have made such a determination and where local governing bodies have not made such a determination. Violations of any order to citizens to evacuate shall constitute a violation of this Executive Order and are punishable as a Class I misdemeanor.
- C. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact, and the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to §44.146.18 (E) and §44.146.28:1 of the *Code of Virginia*, to provide for the evacuation and reception of injured and other persons and the exchange of

medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel and equipment and supplies. The State Coordinator of Emergency Management is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, §44-146.28:1 of the *Code of Virginia*.

- D. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in §44-146.28 (b) of the *Code of Virginia*. Section 44-146.24 of the *Code of Virginia* also applies to the disaster activities of state agencies.
- E. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight, overwidth, registration, or vehicle license exemptions to all carriers transporting emergency relief supplies in and through any area of the Commonwealth in order to support the disaster response and recovery, regardless of their point of origin or destination. This authority to grant exemptions does not supercede any applicable federal law.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted:

Any One Axle	24,000 Pounds
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers)	44,000 Pounds
Single Unit (2 Axles)	44,000 Pounds
Single Unit (3 Axles)	54,500 Pounds
Tractor-Semitrailer (4 Axles)	64,500 Pounds
Tractor-Semitrailer (5 or more Axles)	90,000 Pounds
Tractor-Twin-Trailers (5 or more Axles)	90,000 Pounds
Other Combinations (5 or more Axles)	90,000 Pounds
Per Inch of Tire width in Contact with Road Surface	850 Pounds

All overwidth loads, up to a maximum of 14 feet, must follow Virginia Department of Transportation (VDOT) hauling permit and safety guidelines.

In addition to described overweight/overwidth transportation privileges, carriers are also exempt from registration with the Department of Motor Vehicles. This includes the vehicles en-route and returning to their home base. The above-cited

agencies shall communicate the information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to §52-8.4 of the *Code of Virginia*.

The foregoing overweight/overwidth transportation privileges as well as the regulatory exemption provided by §52-8.4.A of the *Code of Virginia*, and implemented in §19 VAC 30-20-40.B of the "Motor Carrier Safety Regulations," shall remain in effect for 60 days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

- F. Members and personnel of volunteer, auxiliary and reserve groups including search and rescue (SAR), Virginia Associations of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters and others identified and tasked by the State Coordinator of Emergency Management for specific disaster-related mission assignments are, in the performance of those assignments, designated as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of §44-146.23 (a) of the *Code of Virginia*.
- G. The following conditions apply to said deployment of the Virginia National Guard and the Virginia Defense Force:
 - 1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Management and with the approval of the Secretary of Public Safety shall make available, on state active duty, such units and members of the Virginia National Guard and the Virginia Defense Force and such equipment as may be necessary or desirable to assist in alleviating both the potential and actual human suffering and damage to property as a result of the effects caused by the drought, including forest fires.
 - 2. In all instances, members of the Virginia National Guard and the Virginia Defense Force shall remain subject to military command as prescribed by §44.78.1 of the *Code of Virginia* and not subject to the civilian authorities of the state or local governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of Forestry or Emergency Management or state or local law enforcement or emergency

management authorities or receiving guidance from them in the performance of their duties.

3. Should service under this executive order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

- (a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act subject to the requirements and limitations thereof; and, in addition,

- (b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. In the event of such injury or death as a result of service under this executive order, termination of this executive order is not intended to terminate entitlement to benefits as provided herein. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of the injury or death which ever produces the greater benefit amount. Pursuant to §44-14 of the *Code of Virginia*, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

H. The following conditions apply to service by the Virginia Defense Force:

1. Compensation shall be at a daily rate that is equivalent of base pay only for a National Guard Unit Training Assembly, commensurate with the grade and years of service of the member, not to exceed 20 years of service;
2. Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;
3. All privately owned equipment, including, but not limited to, vehicles, boats, and aircraft, will be reimbursed for expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance,

if said equipment was authorized for use by the Adjutant General in accordance with §44-54.12 of the *Code of Virginia*; and

4. In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers Compensation Act, subject to the requirements and limitations thereof.
5. The costs incurred by the Department of Military Affairs and the Virginia Defense Force in performing these missions shall be paid from state funds.

Upon my approval, the costs incurred by state agencies and other agencies in performing mission assignments through the VEOC as defined herein and in §44-146.28 of the *Code of Virginia*, other than costs defined in Item 5 of the paragraph above pertaining to the Virginia National Guard and the Virginia Defense Force, shall be paid from available state funds. In addition, up to \$100,000 shall be made available for state response and recovery operations and incident documentation with the Department of Planning and Budget overseeing the release of these funds.

This executive order shall be effective October 19, 2007, and shall remain in full force and effect until June 30, 2008, unless sooner amended or rescinded by further executive order. That portion providing for benefits for members of the National Guard and Virginia Defense Force in the event of injury or death shall continue to remain in effect after termination of this executive order as a whole.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 18th day of October 2007.

Timothy M. Kaine, Governor

Attest:

Secretary of the Commonwealth